

## REMARKS

The following remarks are submitted to address all issues in this case, and to put this case in condition for allowance. Applicant replaces the prior claim set with new claims in this case simply to better define the subject matter of the present invention and to present the claims in a clearer order. Application claims 67 through 120 are pending in the application. Application claims 67, 91, 95, and 99 are independent claims. Applicant has studied the Office Action mailed August 21, 2008 (“Office Action”) and has the following remarks.

### **35 U.S.C. § 102 / 35 U.S.C. § 103**

The Examiner rejected the prior claims under 35 U.S.C. §102(b) as being anticipated by *Jones '089* (US Pat. 5,554,089) or as obvious in light of *Jones '089* in further view of *Jones '632* (US Pat. 5,044,632) and/or *Voris* (US Pat. 6,394,937 B1). Applicant respectfully traverses these rejections, as no combination of the references shows all of the Applicant’s claimed elements, namely a device allowing the user to perform a first exercise motion facing forward on a seat which is forward of a plane which includes the axes of rotation of the arms, by manipulating a handle at a location which is also forward of the plane, and a second exercise motion facing backward on the same seat by manipulating a handle at a location which is behind the plane as is contemplated by independent claims 67, 91, and 95; and no combination shows a device allowing the user to perform a first exercise motion facing forward on a seat which is forward of a vertical plane which includes the pivot points at which the arms are movably attached to the frame, by manipulating a handle at a location which is also forward of the said vertical plane, and a second exercise motion facing backward on the same seat by manipulating a handle at a location which is behind said vertical plane as contemplated by independent claim 99.

The Examiner contends that *Jones '089* discloses an exercise machine which comprises of first and second arms movably attached to the frame at pivot points such that each arm traverses a fixed path about an axis permitted by the pivot points with at least two handle locations located on each arm.

Applicants contend *Jones '089* does not, however, show an exercise machine which allows the user to perform a first exercise motion by manipulating a handle at a location forward of a defined plane (either a vertical plane including the rotation points or the plane of the rotational axes) and a second exercise motion by manipulating a handle at a location behind the same plane while remaining on the same seat which is forward of the same plane. Rather in *Jones '089* any possible handle is located on only one side of any such plane.

The Examiner has contended that the prior claims only required handle locations and not necessarily handles. The present claims are believed to provide that handles at the defined handle locations are to be manipulated in performing the exercises, as *Jones '089* only shows a single handle for each arm, which is immobile relative to that arm, it is not possible to have handles at two different locations with the device of *Jones '089*. The single handle of *Jones '089* is in fixed, immobile position and therefore *Jones '089* can only present a handle at a single location and cannot provide a handle at a second location.

Applicant notes that as the entire motion of *Jones '089* occurs on a single side of either of the defined planes, there is no possible way for the up and down motion of the single immobile handle of *Jones* to be (a) in two different places during the same exercise motion, (b) be on both sides of a plane it never crosses in the same exercise motion, and (c) provide one exercise by being in a position on one side of the plane and provide a second exercise by being in a second position on the other side of the same plane.

Still further, *Jones '089* is a different exercise machine than that of the instant claims. In the instant claims, a user can rotate or otherwise adjust on the same seat to perform different exercises by manipulating handles on each arm at locations forward and behind either of the defined planes of the claims. Additionally, in the instant claims, the resistance object resists both the pulling and pushing movement in the same manner. Furthermore, unlike *Jones '089*, in the instant claim 95, the handles on either side of the defined planes would trace different fixed paths about the pivot point which is not shown in the device of *Jones '089* since the device of Jones has fixed immobile handles that can only trace a single path.

In the instant claims a user can be placed into many different positions relative to the two arms of the exercise machine, while staying on the same seat by turning forward or backward or otherwise adjusting their body position on the seat. The user can grasp a set of handles at a particular location and perform a particular exercise utilizing the arms in that position. Then, the user can change position to face the opposite direction to perform another exercise on a related arc. Thus, in the instant claims, the user can access a different set of handles (or move a handle between different points) and interact with the arms in a variety of places simply by changing his or her body positioning on the same seat. The user never needs to change to a different seat on the machine in order to access a different exercise.

This same seat element of the instant claims provides for a machine in which the user can more easily perform multiple resultant exercises. Multiple seats are not needed or required to perform the at least two different exercises. This saves space and, in addition, limits the problems where the user must get up and walk around the machine to a different seat in order to perform a different exercise. In contrast, in the present claims, a user can just rotate their

positioning on the same seat, thereby accessing different exercises with greater ease and the machine requires a smaller useable footprint.

As *Jones '089* fails to teach or suggest an exercise machine allowing the user to perform a first exercise motion facing forward on the seat by manipulating a handle at a location forward of either of the defined planes and a second exercise motion facing backward on the same seat by manipulating a handle at a location behind said planes, *Jones '089* cannot anticipate the elements of the claims.

Furthermore, in *Jones '089* the counterweight hubs (40 and 41) were designed to effectively zero out the weight resistance on the principal weight holding hubs (30 and 31) during the upward-pushing movement, not provide independent resistance to the downward-pulling movement. However, even if the counterweight hubs (40 and 41) were considered to provide resistance to the downward-pulling movement, any handle location used first for the pushing movement and then for the resultant pulling movement would have to be on the same side of either of the defined planes and, in fact, place the handles in the same position and on the same fixed path.

Simply for the sake of completeness, it is noted that none of the additional references of *Jones '632* and/or *Voris* fill the holes of *Jones '089*. Specifically, *Jones '632* and/or *Voris* fail to provide handles both forward and behind either of the planes of the present claims allowing the user to rotate or adjust on the same seat to perform different exercises when facing forward or backward. *Jones '632* shows different handles located at different positions to provide versatility in accommodating individuals of different heights, or for slight variations in the way muscles are exercised but does not provide adjustment through the plane of the pivot points or pivot axes. All handles in *Jones '632* are on one side of either of the defined planes regardless of their

adjusted positioning. Similarly, *Voris* reveals a handle movable between locations and positions on the same side of said planes to accommodate the user's arm length.

### **Dependent Claims**

For the reasons discussed above with regards to the independent claims, the dependent claims are also believed allowable. However, applicants further contend that the element of having the motion of the handles be generally perpendicular to the plane of the rotational axes as indicated in claim 68, or generally perpendicular to the vertical plane through the rotational points as indicated in claim 100 is also not shown in the cited references. In the cited references, the motion of the handles appears to be generally angled to these planes. Further, the element of having the pull-type exercise be a rowing exercise, as indicated in claims 74 and 104 is not shown in the references as *Jones '089* and *Jones '632* are military press machines, and *Voris* also provides a press machine.

Applicant, therefore, respectfully asserts that the claims, as amended, are allowable. As *Jones '089* and the combination of *Jones '089* with *Jones '632* and/or *Voris* fail to show all of the Applicant's claimed elements, namely an exercise machine allowing the user to perform a first exercise motion facing forward on the seat by manipulating a handle at a location forward of either of the defined planes and a second exercise motion facing backward on the same seat by manipulating a handle at a location behind said planes, *Jones '089* cannot anticipate the elements of the present claims and the combination of *Jones '089* with *Jones '632* and/or *Voris* cannot render the present claims obvious.

### **Conclusion**

In light of the above remarks, Applicant believes there are no further issues regarding the patentability of the pending claims and respectfully requests the Examiner withdraw the rejections and allow all pending claims so that this case can pass on to issue.

Applicant encloses herein a Request for Continued Examination , petition for a two month extension of time, and the associated fees. The request for RCE withdraws Applicant's current appeal prior to the appeal brief being filed so as to allow the Examiner to consider the amendments and remarks provided herein. It is believed that no additional fees are due with this filing. However, the Commissioner is hereby authorized to charge or credit to our Deposit Account, No. 50-0975, any fees due in connection with the filing of this Response.

If there are any questions regarding this Response, the Examiner is invited to contact the undersigned at (314) 444-1316.

Respectfully submitted,  
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